



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Ref: 8EPR-SR

MAY 17 2010

The Honorable Max Baucus
United States Senate
Washington, D.C. 20510-2602

Dear Senator Baucus:

Thank you for your letter of April 21, 2010, enclosing a letter from the Board of Directors of the Kootenai Business Park Industrial District and requesting a timeline for replacement of the roof on the District's Central Maintenance Building. On behalf of Administrator Jackson, I share your support for redevelopment in the Libby community. Unfortunately, for the reasons outlined below, EPA is unable to provide Superfund program funding for repairs or replacement of the Central Maintenance Building roof.

EPA inspected the roof in late 2007 and informed the District in writing that, though the roof was then in good condition, it would need maintenance. Unfortunately, the necessary maintenance was not done. Now the roof is in such poor condition that it has no value. Under the circumstances, it is not appropriate to use Superfund resources to replace the roof.

Under the Comprehensive Environmental Response, Compensation and Liability Act EPA may only perform or pay for response actions to address threats to human health or the environment. EPA is required to replace property it damages or destroys in taking those response actions. EPA is able to remove the asbestos contained in the Central Maintenance Building roof since that asbestos poses a health threat. However, as indicated earlier, the roof is in poor condition for reasons other than the environmental cleanup.

EPA would be willing to enter into an escrow agreement with the District that provides EPA funding for demolition of the roof and removal of asbestos, and District funding for roof replacement. However, EPA cannot use Superfund dollars to replace the roof at the Central Maintenance Building or any other structures in Libby that have no value.

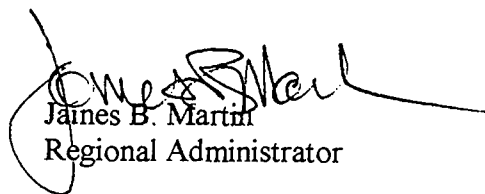
The District's statement that it can demolish what's left of the roof, remove the asbestos and replace the roof for \$300,000 less than EPA's estimate of the cost to only demolish the roof and remove the asbestos appears to be based on incomplete information. The "government cost estimate" of \$627,600 for demolition of the roof and removal of the asbestos that the District relies on is a conservative estimate. The Agency routinely obtains conservative estimates in order to provide for possible worst-case scenarios. EPA's actual expenditures would not be based on the "estimate" but would be based on bids similar to those received by the District.

ROUTING AND TRANSMITTAL

EPA's cost to conduct the removal would be slightly greater than the District's because EPA must pay Davis-Bacon wages on its projects as required under CERCLA Section 104(g), 42 U.S.C. § 9604(g). In addition, the government estimate also contains costs for EPA oversight and sampling to verify that asbestos has been removed from the building. It should be noted that EPA will incur the oversight and sampling costs whether we contract for the work or the District does so.

We very much appreciate your continued interest in and support for EPA's clean-up actions in Libby, and I hope this information will be useful in your response to the District's Board of Directors. If EPA may provide anything further for you or your staff, please contact me or Sandy Fells, Regional Congressional Liaison, at 303-312-6604 or fells.sandy@epa.gov.

Sincerely,


James B. Martin
Regional Administrator